

Forty-ninth Legislature
First Regular Session

COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2371

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 42-2003, Arizona Revised Statutes, is amended to
3 read:

4 **42-2003. Authorized disclosure of confidential information**

5 A. Confidential information relating to:

6 1. A taxpayer may be disclosed to the taxpayer, its successor in
7 interest or a designee of the taxpayer who is authorized in writing by the
8 taxpayer. A principal corporate officer of a parent corporation may execute
9 a written authorization for a controlled subsidiary.

10 2. A corporate taxpayer may be disclosed to any principal officer, any
11 person designated by a principal officer or any person designated in a
12 resolution by the corporate board of directors or other similar governing
13 body.

14 3. A partnership may be disclosed to any partner of the
15 partnership. This exception does not include disclosure of confidential
16 information of a particular partner unless otherwise authorized.

17 4. An estate may be disclosed to the personal representative of the
18 estate and to any heir, next of kin or beneficiary under the will of the
19 decedent if the department finds that the heir, next of kin or beneficiary
20 has a material interest which will be affected by the confidential
21 information.

22 5. A trust may be disclosed to the trustee or trustees, jointly or
23 separately, and to the grantor or any beneficiary of the trust if the
24 department finds that the grantor or beneficiary has a material interest
25 which will be affected by the confidential information.

26 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
27 to confidentiality either in writing or on the record in any administrative
28 or judicial proceeding.

29 7. The name and taxpayer identification numbers of persons issued
30 direct payment permits may be publicly disclosed.

1 B. Confidential information may be disclosed to:

2 1. Any employee of the department whose official duties involve tax
3 administration.

4 2. The office of the attorney general solely for its use in
5 preparation for, or in an investigation which may result in, any proceeding
6 involving tax administration before the department or any other agency or
7 board of this state, or before any grand jury or any state or federal court.

8 3. The department of liquor licenses and control for its use in
9 determining whether a spirituous liquor licensee has paid all transaction
10 privilege taxes and affiliated excise taxes incurred as a result of the sale
11 of spirituous liquor, as defined in section 4-101, at the licensed
12 establishment and imposed on the licensed establishments by this state and
13 its political subdivisions.

14 4. Other state tax officials whose official duties require the
15 disclosure for proper tax administration purposes if the information is
16 sought in connection with an investigation or any other proceeding conducted
17 by the official. Any disclosure is limited to information of a taxpayer who
18 is being investigated or who is a party to a proceeding conducted by the
19 official.

20 5. The following agencies, officials and organizations, if they grant
21 substantially similar privileges to the department for the type of
22 information being sought, pursuant to statute and a written agreement between
23 the department and the foreign country, agency, state, Indian tribe or
24 organization:

25 (a) The United States internal revenue service, alcohol and tobacco
26 tax and trade bureau of the United States treasury, United States bureau of
27 alcohol, tobacco, firearms and explosives of the United States department of
28 justice, United States drug enforcement agency and federal bureau of
29 investigation.

30 (b) A state tax official of another state.

31 (c) An organization of states, federation of tax administrators or
32 multistate tax commission that operates an information exchange for tax
33 administration purposes.

1 (d) An agency, official or organization of a foreign country with
2 responsibilities that are comparable to those listed in subdivision (a), (b)
3 or (c) of this paragraph.

4 (e) An agency, official or organization of an Indian tribal government
5 with responsibilities comparable to the responsibilities of the agencies,
6 officials or organizations identified in subdivision (a), (b) or (c) of this
7 paragraph.

8 6. The auditor general, in connection with any audit of the department
9 subject to the restrictions in section 42-2002, subsection D.

10 7. Any person to the extent necessary for effective tax administration
11 in connection with:

12 (a) The processing, storage, transmission, destruction and
13 reproduction of the information.

14 (b) The programming, maintenance, repair, testing and procurement of
15 equipment for purposes of tax administration.

16 8. The office of administrative hearings relating to taxes
17 administered by the department pursuant to section 42-1101, but the
18 department shall not disclose any confidential information:

19 (a) Regarding income tax, withholding tax or estate tax.

20 (b) On any tax issue relating to information associated with the
21 reporting of income tax, withholding tax or estate tax.

22 9. The United States treasury inspector general for tax administration
23 for the purpose of reporting a violation of internal revenue code section
24 7213A (26 United States Code section 7213A), unauthorized inspection of
25 returns or return information.

26 10. The financial management service of the United States treasury
27 department for use in the treasury offset program.

28 11. The United States treasury department or its authorized agent for
29 use in the state income tax levy program and in the electronic federal tax
30 payment system.

31 12. The department of commerce for its use in:

32 (a) Qualifying motion picture production companies for the tax
33 incentives provided for motion picture production under chapter 5 of this
34 title and sections 43-1075 and 43-1163.

(b) Fulfilling its annual reporting responsibility pursuant to section 41-1517, subsections S and T.

(c) Qualifying applicants for the motion picture infrastructure project tax credits under sections 43-1075.01 and 43-1163.01.

13. A prosecutor for purposes of section 32-1164, subsection C.

14. The state fire marshal for use in determining compliance with and enforcing title 41, chapter 16, article 3.1.

C. Confidential information may be disclosed in any state or federal judicial or administrative proceeding pertaining to tax administration pursuant to the following conditions:

1. One or more of the following circumstances must apply:

(a) The taxpayer is a party to the proceeding.

(b) The proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of the taxpayer's civil liability, with respect to any tax imposed under this title or title 43.

(c) The treatment of an item reflected on the taxpayer's return is directly related to the resolution of an issue in the proceeding.

(d) Return information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer and directly affects the resolution of an issue in the proceeding.

2. Confidential information may not be disclosed under this subsection if the disclosure is prohibited by section 42-2002, subsection C or D.

D. Identity information may be disclosed for purposes of notifying persons entitled to tax refunds if the department is unable to locate the persons after reasonable effort.

E. The department, upon the request of any person, shall provide the names and addresses of bingo licensees as defined in section 5-401, verify whether or not a person has a privilege license and number, a distributor's license and number or a withholding license and number or disclose the information to be posted on the department's web site or otherwise publicly accessible pursuant to section 42-1124, subsection F and section 42-3201, subsection A.

F. A department employee, in connection with the official duties relating to any audit, collection activity or civil or criminal

1 investigation, may disclose return information to the extent that disclosure
2 is necessary to obtain information which is not otherwise reasonably
3 available. These official duties include the correct determination of and
4 liability for tax, the amount to be collected or the enforcement of other
5 state tax revenue laws.

6 G. If an organization is exempt from this state's income tax as
7 provided in section 43-1201 for any taxable year, the name and address of the
8 organization and the application filed by the organization upon which the
9 department made its determination for exemption together with any papers
10 submitted in support of the application and any letter or document issued by
11 the department concerning the application are open to public inspection.

12 H. Confidential information relating to transaction privilege tax, use
13 tax, severance tax, jet fuel excise and use tax and rental occupancy tax may
14 be disclosed to any county, city or town tax official if the information
15 relates to a taxpayer who is or may be taxable by the county, city or
16 town. Any taxpayer information released by the department to the county,
17 city or town:

18 1. May only be used for internal purposes.

19 2. May not be disclosed to the public in any manner that does not
20 comply with confidentiality standards established by the department. The
21 county, city or town shall agree in writing with the department that any
22 release of confidential information that violates the confidentiality
23 standards adopted by the department will result in the immediate suspension
24 of any rights of the county, city or town to receive taxpayer information
25 under this subsection.

26 I. The department may disclose statistical information gathered from
27 confidential information if it does not disclose confidential information
28 attributable to any one taxpayer. In order to comply with the requirements
29 of section 42-5029, subsection A, paragraph 3, the department may disclose to
30 the state treasurer statistical information gathered from confidential
31 information, even if it discloses confidential information attributable to a
32 taxpayer.

33 J. The department may disclose the aggregate amounts of any tax
34 credit, tax deduction or tax exemption enacted after January 1, 1994.
35 Information subject to disclosure under this subsection shall not be

1 disclosed if a taxpayer demonstrates to the department that such information
2 would give an unfair advantage to competitors.

3 K. Except as provided in section 42-2002, subsection C, confidential
4 information, described in section 42-2001, paragraph 2, subdivision (a), item
5 (iii), may be disclosed to law enforcement agencies for law enforcement
6 purposes.

7 L. The department may provide transaction privilege tax license
8 information to property tax officials in a county for the purpose of
9 identification and verification of the tax status of commercial property.

10 M. The department may provide transaction privilege tax, luxury tax,
11 use tax, property tax and severance tax information to the ombudsman-citizens
12 aide pursuant to title 41, chapter 8, article 5.

13 N. Except as provided in section 42-2002, subsection D, a court may
14 order the department to disclose confidential information pertaining to a
15 party to an action. An order shall be made only upon a showing of good cause
16 and that the party seeking the information has made demand upon the taxpayer
17 for the information.

18 O. This section does not prohibit the disclosure by the department of
19 any information or documents submitted to the department by a bingo
20 licensee. Before disclosing the information the department shall obtain the
21 name and address of the person requesting the information.

22 P. If the department is required or permitted to disclose confidential
23 information, it may charge the person or agency requesting the information
24 for the reasonable cost of its services.

25 Q. Except as provided in section 42-2002, subsection D, the department
26 of revenue shall release confidential information as requested by the
27 department of economic security pursuant to section 42-1122 or 46-291.
28 Information disclosed under this subsection is limited to the same type of
29 information that the United States internal revenue service is authorized to
30 disclose under section 6103(1)(6) of the internal revenue code.

31 R. Except as provided in section 42-2002, subsection D, the department
32 of revenue shall release confidential information as requested by the courts
33 and clerks of the court pursuant to section 42-1122.

34 S. To comply with the requirements of section 42-5031, the department
35 may disclose to the state treasurer, to the county stadium district board of

1 directors and to any city or town tax official that is part of the county
2 stadium district confidential information attributable to a taxpayer's
3 business activity conducted in the county stadium district.

4 T. The department shall release confidential information as requested
5 by the attorney general for purposes of determining compliance with and
6 enforcing section 44-7101, the master settlement agreement referred to
7 therein and subsequent agreements to which the state is a party that amend or
8 implement the master settlement agreement. Information disclosed under this
9 subsection is limited to luxury tax information relating to tobacco
10 manufacturers, distributors, wholesalers and retailers and information
11 collected by the department pursuant to section 44-7101(2)(j).

12 U. For proceedings before the department, the office of administrative
13 hearings, the board of tax appeals or any state or federal court involving
14 penalties that were assessed against a return preparer or electronic return
15 preparer pursuant to section 42-1103.02 or 42-1125.01, confidential
16 information may be disclosed only before the judge or administrative law
17 judge adjudicating the proceeding, the parties to the proceeding and the
18 parties' representatives in the proceeding prior to its introduction into
19 evidence in the proceeding. The confidential information may be introduced
20 as evidence in the proceeding only if the taxpayer's name, the names of any
21 dependents listed on the return, all social security numbers, the taxpayer's
22 address, the taxpayer's signature and any attachments containing any of the
23 foregoing information are redacted and if either:

24 1. The treatment of an item reflected on such return is or may be
25 related to the resolution of an issue in the proceeding.

26 2. Such return or return information relates or may relate to a
27 transactional relationship between a person who is a party to the proceeding
28 and the taxpayer which directly affects the resolution of an issue in the
29 proceeding.

30 V. The department may disclose to the attorney general confidential
31 information received under section 44-7111 and requested by the attorney
32 general for purposes of determining compliance with and enforcing section
33 44-7111. The department and attorney general shall share with each other the
34 information received under section 44-7111, and may share the information
35 with other federal, state or local agencies only for the purposes of

1 enforcement of section 44-7101, section 44-7111 or corresponding laws of
2 other states.

3 W. THE DEPARTMENT MAY PROVIDE THE NAME AND ADDRESS OF QUALIFYING
4 HOSPITALS AND QUALIFYING HEALTH CARE ORGANIZATIONS, AS DEFINED IN SECTION
5 42-5001, TO A BUSINESS CLASSIFIED AND REPORTING TRANSACTION PRIVILEGE TAX
6 UNDER THE UTILITIES CLASSIFICATION."

7 Amend title to conform

and, as so amended, it do pass

RICHARD A. MURPHY
Chairman

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3/2/09

H:jmb